113

S. HRG. 101-000

NOMINATION OF SIDNEY LINN WILLIAMS

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

SIDNEY LINN WILLIAMS TO BE DEPUTY U.S. TRADE REPRESENTATIVE

MAY 18, 1989

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

19-550 ⇆ WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S361-43.

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CONTENTS

OPENING STATEMENTS

	Page
Bentsen, Hon. Lloyd, a U.S. Senator from Texas	1
Rockefeller, Hon. John D. IV, a U.S. Senator from West Virginia	2
Baucus, Hon. Max, a U.S. Senator from Montana	6

COMMITTEE PRESS RELEASE

USTR Nomination	1

ADMINISTRATION NOMINEE

Williams, Sidney Linn, U.S. Deputy Trade Representative-Designate	3

APPENDIX

Additional Information

Biographical information of nominee	11
Letter from the U.S. Office of Government Ethics	11

NOMINATION OF SIDNEY LINN WILLIAMS

THURSDAY, MAY 18, 1989

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman) presiding.

Also present: Senators Packwood, Rockefeller, Moynihan, Baucus, Chafee, Symms, Heinz, Bradley, Pryor, Danforth, and Roth.

[The press release announcing the hearing follows:]

[Press Release No. H-26, May 16, 1989]

SENATOR BENTSEN ANNOUNCES HEARING AND EXECUTIVE SESSION ON USTR NOMINATION

WASHINGTON, DC—Senator Lloyd Bentsen (D., Texas), Chairman, announced Tuesday that the Finance Committee will hold a hearing and executive session on the nomination of Sidney Linn Williams to be a Deputy United States Trade Representative.

The hearing and executive session will be held on *Thursday, May 18, 1989 at 9:30 a.m.* in Room SD-215 of the Dirksen Senate Office Building, immediately before the full Committee markup on trade agency budget authorizations.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. The next item on the agenda will be the nomination of Sidney Linn Williams to be Deputy U.S. Trade Representative. Mr. Williams has been nominated to be one of three Deputy USTR's. One of them, Rufus, is located in Geneva and the other two will be located in Washington.

We have had two that have been nominated, you, Mr. Williams, and Mr. Katz. But we have not received his papers as I understand it at the present time. You will be joining—if nominated, and confirmed by the Senate, you will be joining the U.S. Trade Representative at a time when you are going to have a particularly full agenda and implementing that 1988 trade bill is going to be a major job.

At the same time USTR is involved in multilateral trade negotiations in the Uruguay Round, overseeing implementation of the U.S. Canadian Free-Trade Agreement.

Looking at your resume you are particularly experienced in dealing with the Japanese, having recently been a partner in the Tokyo office of an American law firm. I think that is an advantage for you and yet I think it poses a problem for you, Mr. Williams.

I would be interested in hearing from you how your experience with the Japanese will be helpful in addressing the many trade problems that we have had with that country and any concerns you might have that in your private practice, you had clients—Japanese firms—that you were representing and how you would anticipate handling any possible conflicts of interests.

But before we are asking you specific questions, or answering my specific questions, I would like to defer to Senator Packwood for any comment he might have.

Senator PACKWOOD. I have no comment, Mr. Chairman.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. I have no comments, but I will have a statement after the chairman.

The CHAIRMAN. Good. Well, did you want to enter a statement at this point then? Because I will then be asking some specific questions. Would you like to enter it now?

Senator ROCKEFELLER. All right, let me do that now.

The CHAIRMAN. All right.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. Let me say, Mr. Chairman, that I am very impressed by Linn Williams' qualifications. I understand the question which you have asked him and look forward to his response.

USTR has been, I think, fairly strong on trade policy toward Japan. They have expertise on Japan in Joe Massey and Glen Fukushima. Nevertheless, I think that appointing a Deputy like Mr. Williams who is strong on Japanese matters, a Japan expert, is tremendously important.

As the chairman indicated, our three major trade concerns now are the Uruguay Round, Japan, and EC-92. Japanese expertise is particularly crucial; and I think that you, when confirmed, will be the highest ranking Japan expert in the administration. I think that is of note.

As the chairman and the ranking member obviously know, we have just had an enormously contentious fight over the FSX. It was an outpouring of some of the most extraordinary feeling that I can, in my few short years here, remember in terms of concern and hostility to Japan's pace of opening up their market to us.

Japan is the world's most homogeneous nation. At any given moment, on any given day, a Japanese third grader is studying the same thing no matter where he or she is in Japan. All students in a school wear the same uniform.

In the martial arts in Japan, there is an expression that it is necessary to practice a move 10,000 times in order to do it once correctly. But each of those 10,000 practice moves must be identical, hence the emphasis on conformity and uniformity.

The Japanese have never received migration. The Japanese have accepted very few Vietnamese refugees, the only country really that refused to do so in the free world. The Ainu, who were the first people in Japan, were pushed into enclaves in the northern island of Hokkaido.

In the 17th century, the Japanese Shogun made it a penalty of death for any Japanese who traveled overseas. That was in the Tokogowa period where the Japanese had closed up and were looking inwards. If a Japanese fisherman's ship was wrecked and he was picked up by a foreigner, he could never return to Japan because he was considered to be infected. When the Dutch, who were confined to an island off Nagasaki, during that period, died, they were not allowed even to bury their dead on the sacred soil of Japan.

The Meiji Restoration was an effort to modernize Japan. But the purpose of that modernization was to strengthen Japan so that Japan would not become subject to the kind of Western influence and control that China was subjected to. So, one can argue that the Meiji Restoration was not just to build up the country in terms of its strategic capacity, but it was an attempt, ultimately, to keep out foreign influence.

To look at the Meiji Restoration as an effort to industrialize and as the start of a process that, eventually, will make Japan more like us would be a fundamental misunderstanding of Japan, of Japanese history, and of Japanese culture.

I thank the Chair.

The CHAIRMAN. Thank you.

Mr. Williams, I have just returned from a trip that some of us made around Europe talking about trade. I find more and more resentment building up to the Japanese insofar as protection is practiced at home, reciprocated in Europe and in building here. I listened to that debate on the FSX and as members had returned to the Congress from visiting their constituents, they were reflecting some of that resentment.

As I have seen us make some headway insofar as our trade deficit, and have seen a substantial increase in our exports, we have reduced our trade deficit substantially with the Europeans and made major headway there. But it has been static with the Japanese. We have seen them continue to dump products in this country. Selling Japanese products below what they would sell them for to their own people in Japan. Those kinds of practices—I think it is terribly important that we have someone that has serious experience in dealing with the Japanese in Japan. I think that gives you an insight that can be very helpful.

On the other hand, I would like to ask you the question, do you have any ongoing relationship with former clients that represent any conflict for you in performing a fair and impartial job in the duties required of a USTR?

STATEMENT OF SIDNEY LINN WILLIAMS, DEPUTY TRADE REPRESENTATIVE NOMINEE

Mr. WILLIAMS. I do not have any relationships that would pose any conflict, Senator. I have, in accordance with the requirements of both the White House and the Office of Government Ethics, resigned my partnership in my law firm as of the time I became a special employee of the Government. I have no ties to former clients.

I was a commercial corporate lawyer. My work was transactional. It did not involve trade matters. I did not importune the U.S.

Government on trade matters on behalf of a client and do not expect to do so in any future life.

I would, of course, in accordance again with the Ethics Rules, recuse myself should a former client appear as a supplicant before the U.S. Trade Representative, and those companies have been identified to the committee. It is extremely unlikely that any of those companies would appear as a supplicant before the U.S. Trade Representative. Again, as is customary in these ethics matters, I would not think it appropriate to recuse myself from matters in which a former client might be simply a part of a larger industry group, which is as Ambassador Hills and others in her position and mine have done.

I do not foresee potential or perceived conflicts as a serious problem or as requiring recusal in any significant number of matters.

The CHAIRMAN. Well, you have anticipated my next question. Good. Let's get to the question of extension and steel VRA's. My understanding is the administration is trying to formulate its position now, decide its position. And, obviously, we in the Congress are very much interested in what that position policy would be. I would be interested in your views on how the administration will involve Congress in trying to formulate that kind of a steel trade policy.

How would you propose that the Congress and the administration agree on changes to some of these complaints that we have been hearing?

Mr. WILLIAMS. I think there should be—and so far as I am aware, there is—a full and complete intention to have thorough consultations with Congress on the nature of any extended VRA program. The discussion of the steel matter has centered around the nature of an international consensus that we might seek and a number of specific issues involving countries, products, duration and other issues.

As you pointed out, Senator, the administration is considering options at this stage. When it feels more comfortable with the options that it is looking at now, I am confident that we shall be coming to you to talk about particular programs. To my knowledge, the staff at the USTR has talked to staff people in Congress as well as to members of the private industry about particular issues that go into the formulation of a steel policy.

By the nature of things I have been distant, unfortunately, from the business—the operational business—of USTR while I have been there in a nonconfirmed capacity. But my understanding is that there have been consultations so far, and I certainly intend to consult thoroughly on the subject.

The CHAIRMAN. Thank you.

For the record I would like to comment that it is my understanding that we received the papers on your nomination last week and we have set up a specific meeting in an earlier meeting to move on your confirmation. I want to see that we do that in every opportunity that is presented to us because I think it is terribly important that the USTR office be fully staffed.

We have been disappointed at the pace with which the administration has moved in sending us nominations. I know that there are still quite a number of positions not filled in Treasury and

other Departments of Government where these decisions are being withheld waiting for those kinds of requirements. We had a good example of that yesterday in Treasury.

I defer now to my colleague, Senator Packwood.

Senator PACKWOOD. I have no questions this morning, Mr. Chairman.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. Mr. Williams, I guess the main thing I want to ask you is how you would regard the designation of Japan under Super 301.

Mr. WILLIAMS. I think, as you have indicated, Senator, both in our private discussion and here this morning, and as the chairman has indicated, we have very serious concerns about our trading relationship with Japan, which I do not think are fully perceived in Japan as we would like them to be perceived.

I think many Japanese people, based upon my experience there, believe that Japan has internationalized to a great extent. That is not a view that is shared here; that is not a view that I share. I think it is extremely important to establish the point that Japan is not pulling its fair share of the world's imports—not just ours but everybody else's—particularly in manufactured, producer and capital goods. The numbers prove it, and the specific instances prove it.

I think it is also important that we recognize ourselves that the problem is, as you indicated, not, as many Japanese may think, a jealousy or fear of fair competition but a growing and deep frustration at the inaccessibility of the Japanese home market. The relative absence of overt barriers—visible barriers—is not the issue. The issue is invisible barriers. A point that Ambassador Hills has made, and that I would certainly strongly subscribe to, is that invisible barriers—often so called structural barriers—are fair game for trade policy. They are appropriate for trade action under the Omnibus Act and in any other manner that trade policy can get at them.

The final general point I would make in response to your question of the appropriateness of consideration of Japan as a Super 301 country is to note that, at bottom, this is not fundamentally an issue of the United States versus Japan. This is an issue that extends to other countries. As the chairman pointed out, the European community and Korea, as examples, have exactly the same frustrations; they have exactly the same concerns. It is not just we who have them.

The Japanese consumer—both the Japanese industrial consumer and the Japanese individual consumer—either have or should have the same frustrations; because ultimately they pay for that closed market in many ways.

As you know, the discussion on Super 301 is continuing. It would be inappropriate for me to speculate on what country or what practice would be included. But I can assure that it is my strong view that it is critical, not just to us, and not even just to Japan, but to the world's global trading system, that the Japanese market—the second largest market in the world—become substantially and quickly open to foreign competition.

Senator ROCKEFELLER. Mr. Chairman, I very much welcome those comments. I cannot remember, in the few short years I have been on this committee, any comments that are more pertinent and accurate with respect to Japan. It simply increases my confidence in you and in the job that you will do.

I would like to follow on the chairman's question on steel VRA's. Commerce has been looking at 2 years, plus 2 years. That will not cut it. It has to be a 5-year effort. Let me simply state the case.

While it is true that steel in this country made some money last year, it had lost $12 billion in the preceding 6 years. In the steel industry, you need continuous casting capacity to compete. In 1980, we had 20 percent continuous casting capacity in our steel industry; we now have 60 percent. The VRA's are needed because it will cost about $2 billion a year for the steel industry to arrive at 100 percent continuous casting capacity.

This is not a giveaway program. The Government does not spend any money. The U.S. steel industry has rationalized itself, laid off two-thirds of its workers. Fifteen percent of the industry is still in bankruptcy; it cut back 25 percent of its capacity. It is competing against government-controlled or government-owned or government-subsidized competition. The VRA's are necessary for 5 more years to continue the industry's process of rationalization and improvement. Mr. Williams, what is your view of the steel VRA's.

Mr. WILLIAMS. I certainly understand your concern, Senator, again, both in our private discussion and here. It is an odd jump from open markets in Japan to VRA's but not at all an illogical one, because they both have to do with open markets. I think we should not lose sight of the fact that the genesis of the VRA program was a very serious concern about pervasive subsidization and dumping by foreign steel producers, in the same general sense in which we have a concern about pervasive invisible barriers in the Japanese home market.

So I consider both of these exercises ones that are market-opening exercises. May I add in partial response to a question that this committee undoubtedly would not ask but that other countries might, that I do not consider these responses unilateral at all; I consider them in full service, not only of our interests—and they are in service of our interests—but in the interests of the multilateral trading system, because anything that opens markets and makes them more subject to market forces is not only good for us, but is good for the global trading system.

Senator ROCKEFELLER. Thank you, Mr. Williams. I am very well satisfied with those answers. And I thank the chairman.

The CHAIRMAN. Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Williams, I first want to congratulate you on your nomination. There are some people who believe that one way to finesse naming Japan in Super 301 is to name Japan only, but not back it up with any specific adverse trade practices. I strongly believe that that would be a mistake. I understand that it is difficult to deal

with some of the trade barriers, because as you say they are invisible trade barriers, not visible.

But I also think that if we name only a country without any reference whatsoever to any specific trade barriers that we will be getting nowhere. There will be a lot of talk and not a lot of action. I strongly encourage the USTR to also name the most difficult and the most pervasive specific practices and that can include a distribution system. One can specify invisible barriers. There are semiconductor. The semiconductor agreement is certainly an area. Forest products is another potential area. There are all kinds of ways in which USTR, when it names Japan, can also name specific practices.

Again, I strong urge the USTR to name practices at the same time that it names the country of Japan.

The second point is this, Senator Packwood and I yesterday wrote the administration a letter urging the USTR to name barriers to forest products in Japan as a specific practice under 301. As you know, the Department of Commerce has recently concluded that Japan bars exports from the United States of forest products into Japan in the amount of approximately $1.2 billion. That, I think, is an unfair trade practice and I think it is one that the USTR should name.

Thank you.

Mr. WILLIAMS. Thank you, Senator. I will convey your thoughts immediately back to the USTR. And as I said to Senator Rockefeller, while it would not be appropriate for me to comment on a process that is ongoing, I personally certainly share your belief that the naming of specific practices is important to the trade policy discussion, not only with Japan but with any other country.

In Japan I think one way to address structural concerns is through some specific product areas. So, again, I personally share your concern, and I will certainly convey that to the USTR.

Senator BAUCUS. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. The order of arrival this morning is Senators Rockefeller, Packwood, Pryor, Danforth, Baucus, Roth, Chafee, Moynihan, and Symms.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Williams, I noted you have had an interesting background. You graduated from Princeton, been to Harvard Law—graduated from Harvard Law School, and been out in practice. So you have had rather extensive experience in various areas.

I would just like to briefly ask you, as you come—I think this is your first venture into Government services, is it not?

Mr. WILLIAMS. No, sir. I was vice-president and general counsel of OPIC, the Overseas Private Investment Corporation, for about 2½ years in the early 1980's—1981 to 1984.

Senator CHAFEE. As a nominee for a Federal position, have you found the series of hurdles you have had to go through in connection with your sale of various securities, or whatever is required, has that been so extremely onerous? The reason I am asking, I am having severe misgivings about what is being imposed upon nominees for office in the Federal Government and it does not affect

perhaps those so much who are just out of law school or college or wherever it might be rather recently, but you must have built up some assets.

How have you found the process?

Mr. WILLIAMS. It is awfully difficult to answer that. But I think I can say it has had its burdens, not only in terms of the time. The nature of the requirements is such that there are additional expenses—things like trustee fees, legal fees, other matters—that make it a greater burden. It is one that I am not unwilling to make, of course.

Senator CHAFEE. No, obviously you are not; you are here and you have made this decision. So I am not looking at your answer in the form of complaint. I just think the system has gone crazy. We had here Dr. Sullivan who came up before us and he was involved in having to reject something like $200,000 of pension or retirement rights. And as a result of the chairman's actions and others, that was straightened out. But here you are—42 years old, are you?

Mr. WILLIAMS. Yes.

Senator CHAFEE. Coming into Government. A fine background, from good positions, partner of a law firm. So I am just curious, did you have to sell securities?

Mr. WILLIAMS. I put my assets in a blind trust, Senator. I sold some securities that presented immediately potential conflicts of interest. The rest I put into a blind trust under the normal Government rules. Under the new rules we are required to have a financial institution as a trustee, and I have done that as well.

Senator CHAFEE. And, obviously, they charge a fee?

Mr. WILLIAMS. They do, indeed.

Senator CHAFEE. So you had legal bills in trying to draft up this trust?

Mr. WILLIAMS. Yes. I do not trust myself to do that one. It is a difficult issue, Senator, because in our search for ethical behavior, which is so important to the functioning of the Government, we often focus on the surface of behavior. It even has a name—perceptions of impropriety—which to some degree trivializes the issue. The issue is one's ethical behavior, not the perceptions of impropriety.

I am not smart enough to know how one gets to the evaluation of ethical behavior; and perhaps one is left with the only case being the surface indicia of ethical behavior.

Senator CHAFEE. How long did the clearance process take for you?

Mr. WILLIAMS. From the time I was notified until today, it would be 4 months, give or take. I should say I am truly grateful to the committee for putting me on with such short notice. The chairman mentioned this earlier. And, Mr. Chairman, I would be remiss, very remiss, if I did not pass along to you the personal thanks of Ambassador Hills. I know the committee is busy and she is truly grateful for your putting me on with such short notice.

I should also add, my mother-in-law is grateful. My mother-in-law made a suit for my wife, especially for this hearing. She made it in February and it was about to go out of season. [Laughter.]

The CHAIRMAN. Is she here?

Mr. WILLIAMS. She is here, yes.

The CHAIRMAN. Would she stand? I would like to see the suit. [Applause.]

Very nice. You will have to answer for that when you get home. [Laughter.]

Senator CHAFEE. Well, Mr. Chairman, I just want to say in summary, for what good it does, I think the system has gone hog wild and I do not know what is going on that it takes 5 months to get a clearance of an individual. They have got to go through all kinds of expensive hurdles in order to take a splendid job that will only take 80 hours a week of work and at about a quarter of their former salary.

Just consider that in speaking to the world at large, an objection, if anyone is listening.

Senator Symms. Could I ask one question that pertains to this? Have you been able to work during the last 5 months, or have you had to go without even working and not having an income?

Mr. WILLIAMS. I resigned from my law firm on March 15. I became a special government employee at the U.S. Trade Representative's office so that I could get some on-the-job observations—I cannot call it training, because they really are quite careful to keep non-confirmed people out of the operational line—which has its great frustrations, particularly during these crucial weeks. But I resigned from my law firm 2 months ago.

The CHAIRMAN. Senator, you were up anyway. So you are on your time, if you have any further comment.

Senator Symms. I have no further questions.

The CHAIRMAN. Thank you.

I would say to you, Mr. Williams, all of us on this panel face the problem of filing our financial statements and having them publicized this Friday, and having them fly specked, and having the amount of time and effort to try to be sure that we are right and that we have not overlooked something is really incredible.

I really do not mind so much the public knowing, but having all my relatives know. [Laughter.]

I find it embarrassing.

Senator Heinz.

SENATOR HEINZ. Mr. Chairman, I have no questions at this time. I hope that we can confirm him speedily.

Mr. WILLIAMS. Thank you, Senator.

The CHAIRMAN. Senator Bradley.

Senator BRADLEY. I have no questions, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Williams, thank you very much. I am hopeful that we can take care of your confirmation this morning. We have had a quorum and appreciate it. You'll be excused now.

Thank you.

Mr. WILLIAMS. Thank you all very much.

[Whereupon, the hearing was recessed at 10:30 a.m.]

APPENDIX

ADDITIONAL INFORMATION

SIDNEY LINN WILLIAMS

BIOGRAPHICAL

Experience:

Partner, Gibson Dunn & Crutcher, Washington, D.C., and Tokyo Offices (1985-1989)

Advising on corporate matters, financing, joint ventures, licensing and distribution arrangements, mergers, and acquisitions, commercial transactions, political risk insurance, arbitrations

Vice President and General Counsel, Sears World Trader Inc. (trading subsidiary of Sears, Roebuck and Co.) (1984-1985)

Vice President and General Counsel, Overseas Private Investment Corporation (U.S. Government agency) (1981-1984)

Partner and associate, Washington, D.C., law firm (1975-1981); Associated with Tokyo Law Firm (1974); law clerk, Judge I.L. Goldberg, U.S. Court of Appeals, Fifth Circuit (1971-1972)

Education:

Princeton College (B.A., 1968, with honors)

Harvard Law School (J.D., 1971, with honors)

Cambridge University (Research Student, 1972-74)

Fulbright Fellowship

National Endowment for the Humanities Fellowship

Ford Foundation Fellowship

Memberships:

American Bar Association

Bars of District of Columbia, Massachusetts, Pennsylvania, Tokyo (Second Bar Association)

Personal:

Age 42; married to the former Noriko Kurosawa

Two children, Ages 6 and 2

U.S. OFFICE OF GOVERNMENT ETHICS
Washington, DC, May 4, 1989.

Hon. Lloyd Bentsen,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by S. Linn Williams, who has been nominated by President Bush to be the Deputy United States Trade Representative.

We have reviewed the report and have also obtained advice from the Office of the United States Trade Representative concerning any possible conflict in light of the Office's functions and the nominee's proposed duties. Attached to the report is a memorandum from Mr. Williams to Mr. Bolten dated May 2, 1989 in which Mr. Wil-

liams sets forth the steps he intends to take in order to avoid even the appearance of conflict. One of those steps includes the creation of a qualified blind trust which is well into the process of approval by this Office.

Based upon these commitments by Mr. Williams, I believe he is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Frank Q. Nebeker, *Director.*

Enclosure

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19-550 WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S361-43

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Nomination of Sidney Linn Williams

The above referenced hearing before the Senate Committee on Finance was inadvertantly assigned the incorrect publication number of S. HRG. 101-000—The correct designation is S. HRG. 101-113.